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PART III.

Legislative Measures and Rules thereunder.

REGULATION IX OF 1921.

Received the assent of His Highness the Maharaja on the twenty-fourth day of December 1921.

The Mysore Prevention of Adulteration Regulation.

WHEREAS it is expedient, in the interests of the public health, to prevent the adulteration of food; His Highness the Maharaja is pleased to enact as follows:— Preamble.

1. (1) This Regulation may be called the Mysore Prevention of Adulteration Regulation, 1921. Short title and extent.

(2) This section extends to the whole of Mysore; the rest of the Regulation shall extend only to such local areas as the Government may by notification in the Official Gazette direct, and in respect either of all food or such as the Government may specify in the notification; and, if the Government so direct, only for the duration of any market, fair or festival or other large assembly of people.

Provided that such notification shall be made only after the local authority or authorities concerned have had an opportunity of expressing an opinion as to the necessity for such extension.

2. In this Regulation unless there is something repugnant in the subject or context: Interpretation clause.

'food' includes every article (other than drugs or water) used by man for food or drink and all material used or admixed in the composition or preparation of such article and shall also include flavouring matter and condiments;

'butter' and 'cheese' mean respectively butter and cheese made exclusively from milk or cream or both with or without the addition of salt or other innocuous preservative, or of innocuous colouring matter;

'ghee' means ghee prepared exclusively from butter made from cow's or buffalo's milk or cream or both;

'prescribed' means prescribed by rules made under this Regulation;

'public analyst' means any person appointed by or with the approval of the Government to exercise the powers of a public analyst under this Regulation;

'local executive officer' means, in any municipality the President or Chairman of the Municipal Council; and in or for other local areas, the President of the Taluk Board, or if there is no Taluk Board, the President of the District Board, or if there is no Taluk or District Board, such public servant as may be designated by the Government for the exercise of the functions of a local executive officer under this Regulation.

Delegation of powers to local executive officers.

3. (1) The local executive officer may delegate his powers and duties under this Regulation to such persons and in such manner as may be prescribed.

(2) Every person to whom powers have been delegated under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Appointment of analyst

4. (1) The local authority having control over any local area to which any provisions of this Regulation may be extended may, subject to the approval of Government, appoint a public analyst for such area.

(2) When no public analyst has been appointed under sub-section (1), the Government may appoint one for any one or more areas to which they have extended the provisions of this Regulation, and if local authorities have been constituted for such areas, may require such authorities to defray the whole or in part and in such proportions as the Government may determine, the expenses of and connected with the appointment of the analyst and of executing this Regulation.

(3) For the enforcement of a requisition made under sub-section (2) the Government shall have all such powers of control over every local authority as are given to them in respect of any similar matter by the Regulation under which such local authority is established.

Offences and exceptions.

5. (1) Every person who

(*a*) sells any food which is not of the nature, substance or quality of the article demanded by the purchaser; or

(*b*) manufactures for sale, or offers for sale or hawks about or sells any food which is not of the nature, substance or quality which it purports, or is represented to be; or

(*c*) abstracts from any food any part of it so as to affect injuriously the nature, substance or quality thereof with intent that it should be sold in its altered state without notice of the alteration, or sells any article so altered without making disclosure of the alteration; or

(*d*) sells milk, cream, butter, ghee or cheese which is not up to the standard of purity prescribed by Government;

shall be punished for the first offence with fine which may extend to one hundred rupees and for every subsequent offence with fine which may extend to five hundred rupees.

Provided that in the following cases no offence under this section shall be deemed to have been committed:—

(*i*) where any innocuous material has been used or admixed in the composition or preparation of the food to render the same fit for carriage or consumption and not fraudulently to

increase the bulk, weight or measure of the food or to conceal or debase the quality thereof; or

(*ii*) where in the process of production, collection, preparation or conveyance of the food some extraneous material has unavoidably been admixed therewith; or

(*iii*) where the food is the subject of a patent in force and is supplied in the state required by the specification thereof.

(2) In every prosecution for an offence against this section, the court may presume that any food found in the possession of a person, who is in the habit of manufacturing like articles of food, has been manufactured for sale.

Presumptions to be made and pleas to be disallowed or allowed.

6. (1) In every prosecution for an offence against the last preceding section, it shall be no defence to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having bought only for analysis was not prejudiced by the sale.

Provided that the vendor shall not be deemed to have committed an offence under section 5 if, he proves that the food was purchased by him as the same in nature, substance and quality as that demanded by the purchaser and with a written warranty to the effect that it was of such nature, substance and quality, that he had no reason to believe at the time when he sold the same that the food was not of such nature, substance or quality, and that he sold it in the same state as that in which he purchased it.

(2) Where an employer is charged with an offence under this Regulation, he shall be entitled on application duly made by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for the hearing, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he used due diligence to enforce the execution of this Regulation and that the said other person committed the offence without his knowledge, consent or connivance, the said other person shall be convicted and the employer shall be acquitted.

Powers of local executive officers for purposes of inspection.

7. (1) The local executive officer may without notice enter any place where articles of food are being manufactured or exposed for sale at any time by day or night when the exposure for sale or manufacture is being carried on and inspect the same and any utensil or vessel used for manufacturing, preparing or containing any such article.

(2) No claim shall lie against any local authority or any person for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for effecting an entry into any place under this section.

(3) In any legal proceedings in respect of powers exercised under this section in which it is alleged that any food was not kept, exposed, hawked about, manufactured, prepared, stored, packed, or cleansed for sale, or was not intended for human food, the burden of proof shall lie on the party so alleging.

Penalty for preventing inspection.

8. Every person who shall in any manner whatsoever prevent the local executive officer or person duly authorized by him exercising his powers under the last preceding section, shall be punished, where his act does not amount to an offence under the Indian Penal Code, with a fine which may extend to fifty rupees.

Power of local executive officer to seize adulterated food, etc.

9. If any article intended for food appears to the local executive officer to be adulterated or other than what it purports or is represented to be, or if any vessel or utensil used in manufacturing, preparing or containing such article appears to violate any rule made under section 20, he may seize or carry away or secure such article, utensil or vessel, in order that the same may be dealt with as hereinafter provided.

Penalty for removing or interfering with articles seized.

19. Every person who shall unlawfully remove or in any way interfere with an article secured under the last preceding section shall be punished with fine which may extend to five hundred rupees.

Sample of articles seized to be sent to the public analyst.

11. When any article of food seized under section 9 appears to the local executive officer to be adulterated or other than what it purports or is represented to be, he shall forthwith send a sample of such article to the public analyst.

Production of articles, etc., seized before magistrate and powers of magistrate to deal with them.

12. (1) Articles of food or samples thereof, utensils or vessels seized under section 9, shall as soon as possible, be produced before a magistrate;

Provided that where a sample of an article has been sent to the public analyst the article or sample thereof may be produced before the magistrate after receipt of the public analyst's certificate.

(2) Whether or not complaint is laid before the magistrate of any offence under the Indian Penal Code or under this Regulation, it it appears to the magistrate on taking such evidence as he thinks necessary that any such article is adulterated or other than what it purports or is represented to be, or any such utensil or vessel is of such kind or in such state as is described in section 9 he may order the same

(*a*) to be forfeited to the local authority, or

(*b*) to be destroyed at the charge of the owner or person in whose possession it was at the time of seizure in such manner as to prevent the same being again exposed or hawked about for sale or used for human food or for the manufacture or preparation of or for containing any such article as aforesaid.

Purchaser may have food analysed.

13. (1) Any purchaser of any article of food shall be entitled, if a public analyst has been appointed for the area within which such article is purchased, on payment of such fees as may be prescribed by the authority appointing the analyst, to have such article analysed by such public analyst and to receive from him a certificate of the result of his analysis.

(2) Before submitting such article to be analysed as aforesaid the purchaser shall notify to the seller his intention to have it so analysed; and the public analyst on receiving such article for analysis shall divide it into three parts, of which one is to be analysed, another to be retained by him in order to be returned with his certificate and the third to be delivered on demand to the seller, provided that each part other than the part analysed, shall be marked and sealed or fastened up in such manner as its nature permits.

Power of local executive officer to purchase samples for analysis.

14. (1) The local executive officer may purchase a sample of any article of food from any person exposing such article for sale or from any person who is in the course of delivering or preparing to deliver it to a purchaser or consignee, and may submit it to be analysed by the public analyst appointed for the area within which such sample has been procured.

(2) Every such person who refuses to sell such sample to the local executive officer or any person duly authorized by him at the price at which he usually sells the article shall be punished with fine which may extend to one hundred rupees.

Procedure when article is purchased for analysis.

15. (1) When the local executive officer or any other person purchases a sample of food with the intention of submitting it to be analysed by the public analyst, he shall notify to the person from whom he has purchased the article his intention to have it analysed and shall divide it in three parts to be then and there separated and each part to be marked and sealed or fastened up in such manner as its nature permits and shall deliver one of the said parts to the seller and retain another of the parts for production in case proceedings are taken and submit the third part, if he deems it right to have the article analysed, to the public analyst.

(2) If the seller declines to accept one of the parts, the public analyst receiving a sample for analysis shall divide it into

two parts and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he delivers his certificate, to be delivered to the purchaser or to the local executive officer who shall retain it for production in case proceedings are taken.

Public analyst's certificate.

16. (1) Every public analyst to whom a sample has been submitted under this Regulation shall deliver to the person so submitting it a certificate in the form prescribed in the schedule to this Regulation, or to the like effect, specifying the result of his analysis.

(2) Any document purporting to be such certificate signed by a public analyst may be used as evidence of the facts started therein in any proceedings under this Regulation or under sections 272 to 276 of the Indian Penal Code.

Provided that any court before which a case under this Regulation may be pending, whether exercising original, appellate or revisional jurisdiction, may in its discretion, at the request either of the accused or of the complainant, cause any article of food to be sent for analysis to the Chemical Examiner to Government or to any public analyst designated for the purpose by Government, who shall thereupon analyse the same and report the result of such analysis to the said court; and the expense of such analysis shall be paid by the accused or the complainant, as the court may by order direct.

Jurisdiction of magistrates.

17. Third class magistrates shall not try any offence under this Regulation unless they have been generally or specially empowered in this behalf by Government.

Institution of proceedings in courts.

18. No prosecution under this Regulation shall be instituted except on the complaint of the purchaser or with the consent in writing of the local executive officer.

No proceedings to be instituted more than three months after the offence.

19. No prosecution under this Regulation shall be commenced after the expiry of three months after the commission of the offence.

Power of Government to make rules.

20. Government may, after previous publication, make rules consistent with this Regulation for the whole or any part of the area to which this Regulation may have been extended—

(*a*) prescribing the classes or qualifications of persons to whom and the conditions on which the local executive officer may under section 3 delegate his powers;

(*b*) determining the limits within which the local executive officer may exercise his powers whether such limits are within or without the local area in respect of which he holds any public office;

(*c*) prescribing in the interests of the public health the state in which utensils and vessels used for manufacturing, preparing, or containing any food intended for sale shall be kept, and prohibiting the use of utensils and vessels made, in whole or in part, or materials likely to injure such food;

(*d*) prescribing the manner in which notice of any addition, admixture or deficiency shall be given to the purchaser of any article of food;

(*e*) prescribing standards of purity for milk, cream, butter, ghee and cheese, and determining what deficiency in any of the normal constituents of these articles or what addition of any extraneous matter or proportion of water in any of the same or any preparation of the same shall for the purposes of this Regulation raise a presumption until the contrary is proved that the milk, cream, butter, ghee or cheese is not genuine, or is injurious to health.

And providing for fines not exceeding one hundred rupees in the case of a first offence and five hundred rupees for every subsequent offence by way of penalty for breach of rules made under clauses (*c*) and (*d*).

Power of local authorities to make bye-laws.

21. Every local authority exercising control over any local area to which this Regulation has been extended may, under the provisions respecting the making of bye-laws of the Regulation under which such local authority is established, make bye-laws not inconsistent with this Regulation or rules made under the last preceding section for all the purposes of this Regulation and in particular, without prejudice to the generality of the power hereby given, for the prevention of the manufacture or preparation for sale, the exposure for sale, or hawking about, or the sale of articles of food, which are adulterated or other than what they purport or are represented to be and the inspection and the regulation of places in which such articles are kept, stored, packed, cleansed, manufactured, prepared or exposed for sale, hawked about or sold.

22. The provisions of sections 2 to 21 of this Regulation shall be read as supplemental to the Regulation under which the local authority concerned is constituted.

SCHEDULE.

Form of Certificate.

Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the sample. If the sample is received by post or by railway, entry should be made accordingly.

‡ When the article cannot be conveniently weighed, this passage may be erased or the blank may be left unfilled.

§ Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article potable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.

To

I, the undersigned, public analyst for the , do hereby certify that I received on the day of 19 from a sample of for analysis (which then weighed ‡) and have analysed the same and declare the result of my analysis to be as followe:—

I am of opinion that the same is a sample of genuine or

I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under:—

§ Observations.

Signed this day of 19 .

A.B.

at

In the case of a certificate regarding milk, butter, ghee or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

M. KANTARAJ URS,
Dewan.